

REMARKS

This responds to the Office Action mailed on October 19, 2005, and the references cited therewith. No claims are amended, canceled, or added; as a result, claims 47 – 60 remain pending in this application. The amendments to the specification are made to correct obvious typographical errors and do not introduce new matter.

§102 Rejection of the Claims

Claims 47-60 were rejected under 35 U.S.C. § 102(e) for anticipation by Van Hoff et al. (U.S. Patent No. 6,272,536) referred to herein as “Van Hoff”.

The Applicant does not admit that Van Hoff is prior art, and reserves the right to swear behind the references in the future. In addition, because the Applicant asserts that the Office has not shown that Van Hoff reference discloses the identical invention as claimed, the Applicant traverses this rejection of the claims for at least the following reasons.

First, the term “channel” as used in independent claims 47, 55, and 58 has a different meaning than the term “channel” as used in Van Hoff. The term channel as defined by Van Hoff refers to “[a] named application consisting of code and data which can be subscribed to by an end-user. Once delivered to the end-user a channel behaves much like a normal application.”¹ The office action suggests that Van Hoff’s definition of a “channel” anticipates the “channel” recited by the Applicant’s claims. However, the term “channel” as defined in the Applicant’s specification refers to a “. . . a mechanism for distributing software to one or more targets from a central location. A channel is a hierarchical list of targets and tasks.”² In addition, the term “task” is defined in the Applicant’s specification refers to “a file, a script, or a command that is run or installed on a target computer.”³ Thus, Van Hoff does not teach each element of claims 47, 55 and 58 because Van Hoff does not teach “a channel comprising *a list of one or more channel clients and one or more tasks assigned to each one of the channel clients*” as recited in independent claim 47, and Van Hoff does not teach “a channel comprising *a list of tasks and deployment instructions for the task*” as recited independent claims 55 and 58.

¹ See Van Hoff at column 3 lines 1 – 4.

² See Applicant’s Specification at page 4 lines 9 – 11.

³ See Applicant’s Specification at page 4 lines 21 – 22.

Second, Van Hoff does not describe a channel client that is installing files for a channel client component and for a service as recited in independent claim 47. A channel client is a target computer that receives one or more tasks. The “channel client” component is software installed on the target computer. The office action suggests that Van Hoff teaches this at column 12 lines 15 – 28. However, the passage of Van Hoff column 12 lines 15 – 28 only teaches a process for generating a differences file (“diff file”). In addition, the process of generating the differences file is performed by a transmitter. Van Hoff uses the following terminology: “[t]he applications are called ‘channels’, the server is called the ‘transmitter’, and the client is called the ‘tuner.’”⁴ Thus, the transmitter taught by Van Hoff is a server—not a client. As a result, Van Hoff does not teach each element of claim 47 because Van Hoff does not teach “installing, *by each one of the channel clients*, the installation files for the channel client component and the installation files for the service.”

Third, Van Hoff does not describe using a subscription file to receive installation files as claimed in claim 49. Van Hoff describes “subscribing” to a channel as follows:

The end-user uses the tuner to subscribe to channels. When the user first subscribes to a channel a request is made to the transmitter hosting the channel. As a result of this request, the code and data for the channel is downloaded and stored in a local persistent storage, usually a hard disk. Once the entire channel is downloaded and installed on the local hard disk it can be executed as a normal application. The user can access the channel many times without requiring further network traffic.⁵

In contrast, a subscription file as described in the Applicant’s specification is used to install a channel client component on a target computer *that is not directly connected to a network*. The Applicant’s figure 13 and the associated description illustrate a method of installing the channel client component software using subscription files according to an example embodiment. Thus, Van Hoff does not teach every element of claim 49 because Van Hoff does not teach using “subscription files” to install the channel client component software.

⁴ See Van Hoff Abstract.

⁵ See Van Hoff Column 3 lines 13 – 21.

Since Van Hoff does not teach the identical invention claimed, independent claims 47, 55, and 58 (as well as all claims depending from them) are in condition for allowance. Reconsideration and withdrawal of the rejection of claims 47 - 60 under § 102 is respectfully requested.

§103 Rejection of the Claims

Claims 50 – 52 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Van Hoff et al. (U.S. Patent No. 6,272,536). For the reasons described above, a *prima facie* case of obviousness has not been established as required by M.P.E.P. § 2142, and the Applicant respectfully traverses this rejection.

As described above, Van Hoff does not describe using a subscription file to receive installation files as claimed in claim 49. Likewise, Van Hoff also does not describe a client receiving the subscription file by e-mail (as recited in claim 50), receiving the subscription file through a web page (as recited in claim 51), or receiving the subscription file through a login script (as recited in claim 52).

Reconsideration and withdrawal of the rejection of claims 50 - 52 under § 103 is respectfully requested.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 349-9592 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

EMILY J. HARRIS ET AL.

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(612) 349-9592

Date April 19, 2006

By Ann M. McCrackin
Ann M. McCrackin
Reg. No. 42,858

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 19 day of April, 2006.

ANN MCCRACKIN

Ann M. McCrackin

Name

Signature

IN THE DRAWINGS

Enclosed is a full set of formal drawings, each labeled "Replacement Sheet", and showing the following amendment to Figure 1.

Figure 1 is amended with the legend --prior art--.